into defendant's adjoining claim, continuing its upward course to a point where it sharply altered its direction and began to slope downward to the north at an angle of about 17 degrees from the horizontal, thus forming an anticlinal fold roughly approximating the shape of the roof of a house. At some points the two sloping members of this fold united in a ridge; at other places the two members were as much as 20 feet apart. This ridge (or, at points where the two members of the fold did not unite, the highest parts of the two members) passed through the east end-line plane and the north side-line plane of defendant's claim; defendant, claiming this ridge to be an apex, has exercised its extralateral right and mined in the southerly member of the anticlinal fold under the surface of plaintiff's claim. Plaintiff, claiming that the ridge is not an apex, sues for damages and an injunction. *Held,* that the ridge is an apex and that plaintiff, owning the apex, can follow the vein on its downward course in both directions under the property of other locators. *Jim Butler Tonopah Mining Co.* v. *West End Consol. Mining Co.* (Nev. 1916), 158 Pac. 876.

§ 2322 of the UNITED STATES REVISED STATUTES gives to a mining locator, whose location includes the top or apex of any vein, the right to follow such vein on its downward course outside the vertical side-lines of the location, but the statute contains no definition of "top or apex," and the terms have been left to judicial construction. Nearly every definition of the terms has included a statement that the top or apex must be the highest point of the vein where it comes to, or nearest to, the surface of the earth "and where it is broken on the edge, so as to appear to be the beginning or end of the vein." This language was used by Judge GODDARD in charging the jury in *Iron Silver Mining Co.* v. *Louisville,* and has been quoted in the leading case of *Duggan* v. *Davey,* 4 Dak. 110, 26 N. W. 887, and in numerous later cases. See I BARRINGER & ADAMS, MINES & MINING, 441, 442; COSTIGAN, MINING LAW, 139; EMERY, MINER'S MANUAL, 72; LINDLEY, MINES (3 ed.), §§ 308-9; MORRISON, MINING RIGHTS (14 ed.) 194; SNYDER, MINES, § 796; and the recent case of *Stewart Mining Co.* v. *Ontario Mining Co.,* 237 U. S. 350, 35 Sup. Ct. 610, 59 L. ed. 989. The unanimity of the courts and text-writers in using the term "edge" in defining "apex" led the plaintiff in the principal case to insist that there could be no apex without an edge, but the court pointed out that in all of the cases heretofore decided there had been an edge at the highest point of the vein, and that the use of the term "edge" was correct *as applied in those cases,* but was not necessary to a proper definition under other circumstances. Mr. LINDLEY, in his work on MINES (§ 309) makes the categorical statement that an anticlinal fold cannot be an apex, and as counsel for the plaintiff in the principal case he strove to maintain that position, but was unable to convince the court that his position was correct.

NEGLIGENCE—EXPLOSIVES.—The city council of the city of P appointed two members of the board of Aldermen and four members of the council to act as a special joint committee to arrange for a Fourth of July celebration. This committee, without authority, admitted five members of a Business Men's Association to act with them in the matter of the celebration. A special sub-

committee on fireworks was appointed which made a contract with X Fireworks Company, under which the company took full charge of the fireworks display, but was to be under the direct control of the Special Fireworks Committee. An unexploded bomb came down on plaintiff's premises and was found by his minor son, who set it off and was seriously injured by the resulting explosion. Plaintiff sued the members of the General Committee. The lower court directed a verdict for defendants, but the Supreme Court *held,* that the members of the General Committee were personally liable, the question of negligence being for the jury. *Sroka* v. *Halliday* (1916 R. I.), 97 Atl. 965.

It was contended by the defendants in this case and given as reasons by the lower court in directing a verdict that (1) The members of a committee appointed under a vote of the city council could not be held liable; (2) the furnishing and firing of the fireworks was let to contractors, who were independent contractors, and any negligence was that of such independent contractor. However the Supreme Court held that the committee appointed by the city council had no right to admit citizens designated by the Business Men's Association and the council committee together with the other citizens whom they admitted to have places thereon, were deemed to have acted upon their personal responsibility and they and the outside members were subject to the same duties and liabilities in respect to one injured by fireworks used in the celebration. It is well established that an employer is not responsible for the negligence of an independent contractor who does all the work free from any control or right of control as to details but where the contract calls for the doing of things which, unless precautions are taken, are liable to do injury to others, it is the employer's duty to see that such precautions are taken and he cannot escape such duty by turning over the whole matter to the contractor. *Bianki* v. *Greater American Exposition et al.,* 3 Neb. (Unof.) 656, 92 N. W. 615; *Jenne* v. *Sutton,* 43 N. J. Law, 257, 39 Am. St. Rep. 578; *Landau* v. *City of New York,* 180 N. Y. 48, 72 N. E. 631, 105 Am. St. Rep. 709; *Conklin* v. *Thompson,* 29 Barb. (N. Y.) 218. Upon the question of negligence the present decision is in accord with most cases involving negligence in the use of fireworks. That it is actionable negligence to leave bombs or other explosives in a position where they are liable to be found and exploded by children to their injury, see *Wells* v. *Gallagher,* 144 Ala. 369, 39 So. 747, 3 L. R. A. (N. S.) 759, 113 Am. St. Rep. 50; *Barnett* v. *Cliffside Mills,* 167 N. C. 576, 83 S. E. 326; *Pittsburg etc. Ry.* v. *Shields,* 47 Ohio St. 390, 24 N. E. 658, 8 L. R. A. 464, 21 Am. St. Rep. 840. It is negligence to use dynamite bombs and other explosives which are so improperly manufactured that they will not explode in the air and to fire them into the air at such an angle that they will fall upon public or private premises and permit them to remain where children and persons unacquainted with their dangerous nature can pick them up and cause them to explode to their injury and damage. *Bianki* v. *Greater American Exposition et al.,* supra. The above decision was on facts very similar to those in the principal case. Another case nearly similar and entirely in accord with those two decisions is *Cornwall* v. *Bloomington Business Men's Association,* 163 Ill. App. 461.